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**Volume 8, No. 1**      **A Publication of the REAL ESTATE APPRAISERS BOARD**      **April, 2001**

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**Secretary Marlene Cummings Retires**

Former Governor Tommy G. Thompson announced the retirement of Marlene Cummings after serving 14 years as Secretary of the Department of Regulation and Licensing to pursue private interests.

Governor Thompson thanked Secretary Cummings for her years of outstanding work and guidance on licensing issues.

Secretary Cummings, who retired from state service on February 25, 2001, had served with Governor Thompson since the beginning of his administration and was one of his first cabinet appointments.

"Marlene truly is a great friend, a great leader and a source of stability within the administration," Governor Thompson said. "We will miss her sound judgment and her innovative ideas. She has worked well with the licensing boards and her resignation will be a great loss for hundreds of board members and the entire state of Wisconsin"

Governor Thompson said Secretary Cummings has had an extremely successful tenure that emphasized changes in the handling of disciplinary complaints and adopted innovative disciplinary procedures. Her innovations have included an agency time-line for handling complaints, the use of mandated education and a procedure for managing professionals with drug and alcohol addictions.

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**THE WISCONSIN REAL ESTATE APPRAISERS BOARD**

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"My 14 years of service in Governor Thompson's administration have been both inspiring and challenging," Secretary Cummings said. "We were often at the forefront of significant business and health care developments." Secretary Cummings also thanked Governor Thompson for his encouragement and the opportunity to serve, and wished him great success as a member of President Bush's cabinet.

Secretary Cummings says she is retiring to devote more time to her family. She said that she also needs more time for research and writing.

**Important Message From the Department of Workforce Development**

Failure to pay court-ordered child support may result in the suspension or non-renewal of professional licenses.

Recently enacted Wisconsin laws give local child support agencies the ability to request suspension or denial of licenses of people whose names appear on the Child Support Lien Docket and who owe more than \$1,000 or three months' worth of child support.

Past-due child support creates a lien against all of a payer's titled property. The lien is entered into Wisconsin's Child Support Lien Docket when past-due support reaches a specified threshold. In January 2001, the threshold amount was \$20,000 in past-due support.

Child support agencies will notify payers at the time their names are added to the Child Support Lien Docket and prior to initiating license suspension action. Satisfaction (payment in full) of the child support lien, or entering into and complying with a plan to pay off the past-due support, will halt license suspension action.

For more information about Child Support Liens and license suspension, please contact your local child support agency.

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## USPAP Questions & Answers Bulletins

*Vol. 2, No. 9, September 2000*

**Question #1:** I heard that the ASB is revising the SUPPLEMENTAL STANDARDS RULE of USPAP in such a way as to make it a violation of the ETHICS RULE if I do not comply with every condition in an assignment that I accept. How can this be? I can't control every possible factor in performing an appraisal. Please explain why the revision was necessary, and exactly what it means.

**Answer:** The ASB adopted a revision to the SUPPLEMENTAL STANDARDS RULE on July 10, 2000, to become effective January 1, 2001. The revision was necessary to ensure appraisers recognize their USPAP-related obligations when accepting an assignment that includes Supplemental Standards. These obligations were implicit, but not explicit, in the Rule in the 2000 edition of USPAP, and that lack of clarity was causing confusion and disparate interpretations of the Rule.

It is essential for readers of USPAP to recognize that the ASB's revision to the SUPPLEMENTAL STANDARDS RULE in USPAP does not make every requirement in an assignment a Supplemental Standard. Further, even when a requirement that is a Supplemental Standard is not met, that failure to comply is not necessarily a violation of the ETHICS RULE.

If an appraiser accepts an assignment involving Supplemental Standards that the appraiser knows he or she cannot meet, that action is a violation of the ETHICS RULE because the appraiser misrepresented his or her ability. If, instead, an appraiser fails to meet a Supplemental Standard due to an inadvertent error, such action may be a violation of, for example in a real property appraisal, Standards Rule 1-1(b), but it is not a violation of the ETHICS RULE.

Further, appraisers should use care not to extend the SUPPLEMENTAL STANDARDS RULE beyond its intended subject matter. Readers of the Rule should note that:

1. Public agencies or client groups must first issue the requirements that might become Supplemental Standards in the context of USPAP. Requirements imposed by a client do not rise to the level of Supplemental Standards without first having those two characteristics – issued (as in “published”) by a public agency or a client group.

As examples, without limitation; appraisal, appraisal review, or appraisal consulting requirements issued by the federal financial institution's regulatory agencies (Federal Deposit Insurance Corporation, Federal Reserve Board, Office of the Comptroller of the Currency, Office of Thrift Supervision, National Credit Union Administration), secondary mortgage market entities (e.g., Fannie Mae, Freddie Mac, etc.), members of the Employee Relocation Council (ERC), the Department of Housing and Urban Development/Federal Housing Administration (HUD/FHA), or agencies subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, where the published requirements are common to all similar assignments for that agency or client group.

Further, professional appraisal organizations issue requirements for appraisal practice by their members that add to the requirements in USPAP, and can be Supplemental Standards in the context of USPAP because those requirements are publicized and apply uniformly to the work of those practitioners.

2. In order for a client's requirement to become a Supplemental Standard in an assignment, the requirement must add to the requirements set forth in USPAP, and must not diminish the purpose, intent, or content of USPAP. The requirements applicable in an assignment, as that term is used in USPAP, relate to the development and communication of an appraisal, appraisal review, or appraisal consulting assignment. Standards Rules 1-1, 4-1, 6-1, 7-1 and 9-1(b) and (c), and the Comment to STANDARD 3, establish

standards of due diligence and care, with the intent of ensuring any error of omission or commission, or as a result of carelessness, does not significantly affect the result of an appraisal, appraisal review, or appraisal consulting assignment.

A client's requirements that extend beyond this purpose, intent, and content framework, such as the number of copies of a report, the kind of exhibits, or the time frame for assignment completion, might be legitimate service contract requirements, but are not Supplemental Standards applicable to an appraisal, appraisal review, or appraisal consulting assignment in the context of the SUPPLEMENTAL STANDARDS RULE.

However, it is important for appraisers to note that a client's assignment contract-related requirements might become an ETHICS RULE issue if an appraiser misrepresents his or her capacity to provide the service, as is the case when an appraiser advertises for or solicits an assignment in a manner that is false, misleading, or exaggerated (see the Management section of the ETHICS RULE).

**Question #2:** A client has included a requirement in an assignment for me to not complete an analysis step that USPAP requires in that assignment. The client told me his requirement is a Supplemental Standard that takes the place of USPAP. Is this correct?

**Answer:** No, it is not correct, for two reasons. First, a client's requirements cannot diminish the purpose, intent, or content of USPAP. Your client's requirement would diminish the content of USPAP applicable in the assignment.

Second, the SUPPLEMENTAL STANDARDS RULE applies only to requirements issued by public agencies and certain client groups – e.g., regulatory agencies, eminent domain authorities, asset managers and financial institutions, and professional appraisal organizations. These requirements are, in at least some sense, published and apply in the same way to all similar assignments.

The particular requirements of a specific client, such as the number of copies of a report they require, the number and kind of photographs or exhibits, the time frame for delivery of the report, etc., might be a matter to address in your decision to engage in an assignment, but those are not what the SUPPLEMENTAL STANDARDS RULE in USPAP is addressing.

The client in this situation appears to be confused about the intent of the SUPPLEMENTAL STANDARDS RULE and the JURISDICTIONAL EXCEPTION RULE. Supplemental Standards add to the appraisal, appraisal review, or appraisal consulting assignment requirements in USPAP, while applying a Jurisdictional Exception removes a requirement in USPAP that is contrary to law or public policy of a specific jurisdiction. Except when the client in an assignment is a legal authority (e.g., a court of law or a public agency), clients are not jurisdictions.

*Vol. 2, No. 10, October 2000*

**Question #1:** My client, a federally regulated lender, has requested a market value appraisal, as of the current date, of a site that has all necessary approvals for development of a multi-family project with 30 units. My client intends to use the appraisal in underwriting the credit in a land acquisition loan. Must I develop an opinion of value for the completed project?

**Answer:** No, so long as the intended use is as you described, the appraisal assignment does not require a current value of the project with the hypothetical condition of it being completed. This is because the “subject” of your assignment is the site with the existing entitlement to develop the multi-family project, and presumes those entitlements are consistent with the highest and best use of the site. Since your appraisal is as of a current date, and the property that is the subject of your appraisal is a property that actually exists under the zoning and entitlements in place as of that date, there is no need to use a hypothetical condition, or to develop an opinion of value of the property after, or as though, it had been developed.

**Question #2:** My client, a federally regulated lender, has requested a market value appraisal for use in a project development loan take-out commitment on a proposed multi-family property. The intended use of my appraisal is only for the take out loan commitment, not

for project development financing, and the date of value in my appraisal is to be a future date when the proposed project is expected to be completed and the units are rented-out (market absorbed). Must I develop an opinion of value for the existing site with its project development entitlements?

**Answer:** No, so long as the intended use is as you described. Your client has not specifically asked that your appraisal include a current value of the project on the basis of a hypothetical condition or a current value of the site as it exists with its entitlements and the zoning in effect. This is because the “subject” of your assignment is the property that will exist, as of a future date (a prospective value opinion, see Statement on Appraisal Standards No. 4), when the multi-family project has been physically completed and the units have been market absorbed. Since the intended use of the appraisal is only relevant to the future date, with the opinion of value developed under the extraordinary assumption that the property has, by that future date, been completed and market absorbed, there is no need to use a hypothetical condition or to develop an opinion of value of the site as of a current date.

**Question #3:** My client, a federally regulated lender, has requested a market value appraisal for use in financing a commercial property development project. The client’s stated loan conditions include a requirement that the property be leased before the onset of its development. The client stated they need (1) an opinion of market value for the property that actually exists as of a current date, which is the site with its entitlements and under the zoning in effect as of the current date, and (2) an opinion of value as of the future date (a prospective value opinion) when the property will be physically completed and occupied under the pre-leasing terms and conditions. Must I develop both of these opinions of value and, if so, why?

**Answer:** Yes, because the client needs both opinions to aid in identifying its project development loan risk and respond to regulatory requirements and guidelines.

The client’s project development loan decision would typically be based, in part, on your analysis of highest and best use (See SR 1-3) and the feasibility of the development project (See SR 1-4(h)).

The value of the site, with its entitlements and under the zoning in effect as of a current date (i.e., without use of a hypothetical condition), is an important component in your analysis and it provides the client with information necessary to identify development risk and determine appropriate loan terms and conditions. Absent other factors, this value opinion could be developed without use of either an extraordinary assumption or a hypothetical condition. The “subject” in this appraisal is the property, in this case, the site, that actually exists as of a current date of value, with the zoning (including any entitlements) in effect as of that date.

The value of the property as of the future date, when it has been physically completed and leased under the pre-leasing terms and conditions, is also significant information the client would typically use in making its project development loan decision. Developing this value opinion typically requires the use of an extraordinary assumption because the “subject” in this appraisal is the property as it is expected to exist as of that future date when physical development is complete and the property is leased in accordance with the lease terms and conditions.

**Question #4:** My client, a federally regulated lender, has requested a market value appraisal for use in financing a commercial property development project, but the property will not be leased before it has been physically completed (a so called “speculative” property, or “spec-built” property). The client stated that because this is to be a speculative property (not pre-leased), they need my opinion of value as of the future date (a prospective value opinion), when the property will be physically completed but before the new space is leased. That is the condition of the property that will exist under the terms of the loan the client is considering.

The client stated that, in accordance with its policy and applicable appraisal regulations and guidelines, they expect that I will analyze and, to the degree appropriate, apply market based deductions and

discounts to reflect the difference in the net income flow and investment risk between the future date when the property is expected to be physically complete but vacant and the even later date when the new space has been market leased. The client stated that it needed this opinion of value to better evaluate its development loan risk, decide on appropriate loan terms and structure, and to avoid over advancing development loan funds during the project development and market absorption phases.

In my experience in the market area for this type of property, I have not seen any sales of properties that sold in the condition my client has defined, and I am not aware of anyone who currently builds such a project with the intent of selling it as a vacant property. Instead, in this market area, developers of such properties typically complete the physical construction and the first occupancy leasing before attempting to sell the newly developed and market leased property. I have two questions:

(a) Given the conditions my client defined, do I have to analyze the property to identify and, where appropriate, apply deductions and discounts in this appraisal?

(b) If so, given the absence of sales of property in the condition the client defined, how do I determine whether such deductions and discounts are appropriate and, if so, the amount(s) that should be applied?

**Answer:** (a) Yes, given the situation you described and that the condition of the subject property of your appraisal as of the prospective date of value is different than the typical property condition represented in the market data, your analyses in this assignment must address the effect which that difference has on the market value of the physically complete but vacant subject property in your assignment.

(b) In a prospective market value appraisal of a new physically complete but vacant income producing property in a market where sales of such properties are atypical or do not exist, determining the appropriateness and amount of adjustments that might be applied (as deductions or discounts) requires analysis of relevant data to identify whether there is a significant difference in the amount and timing of cash flows and in the investment risk involved with a vacant property versus a property that is leased at market level occupancy.

If the identified differences are significant in the market for the subject property in your appraisal, adjustments should be applied to reflect the impact on the value of that property.

For other types of properties, such as tract developments where the cash flows result from sales to end-users rather than lease income, a similar cash flow and investment risk comparison process may be applied based on the concluded timing and amount of unsold unit absorption (sales).

In any case, the analysis of such properties must respond to the applicable USPAP requirements set forth in Standards Rule 1-3 and 1-4, and Statement on Appraisal Standards No. 2 (SMT-2), Discounted Cash Flow Analysis, SMT-4, Prospective Value Opinions, and SMT-6, Reasonable Exposure Time in Real Property and Personal Property Market Value Opinions. Additional requirements might apply as Supplemental Standards in accordance with the SUPPLEMENTAL STANDARD RULE and, effective January 1, 2001, SMT-10, Assignments for Use by a Federally Insured Depository Institution in a Federally Related Transaction.

**Question #5:** Do the answers to Questions #1, #2, #3, and #4 change if, instead of the type of property involved in each question, the “project” is some other type of property. For example, a land development project in which finished single-family residential lots are to be created, or a project in which a tract of single-family homes is to be developed, or a project in which a tract of agricultural use land is to be developed with a long-lived planting, such as a vineyard?

**Answer:** Not fundamentally, because the answer to each question is based on factors that are independent of the type of real property

involved in the project. These factors are the purpose and intended use(s), and date(s) of value that are relevant to the intended use(s) of the assignment results.

Vol. 2, No. 11, November 2000

**Question #1:** I am a certified general appraiser whose practice includes both residential and commercial appraisal assignments. Recently it has become very common for my “clients” to require me to pick up the check for the appraisal fee from the borrower. This takes place in both residential and commercial assignments. Since I am being paid directly by borrower, does he become the client?

**Answer:** No, USPAP defines the client as: *The party or parties who engage an appraiser (by employment or contract) in a specific assignment. [Comment: The client identified by the appraiser in an appraisal, appraisal review, or consulting assignment (or in the assignment workfile) is the party or parties with whom the appraiser has an appraiser-client relationship in the related assignment, and may be an individual group, or entity.]*

The act of the borrower or any other entity paying the appraiser does not make them the client under USPAP. However, state laws could take precedence over USPAP in this situation. Therefore, you should contact the pertinent jurisdictions to ensure that USPAP is not in conflict.

**Question #2:** I understand that the Appraisal Standards Board adopted a new Statement for the 2001 edition of USPAP that places additional Supplemental Standards upon the appraiser. Is this true?

**Answer:** No, Statement No. 10 (SMT-10), *Assignments for Use by a Federally Insured Depository Institution in a Federally Related Transaction*, in the 2001 USPAP does not introduce new requirements for appraisers who do this type of work. Rather, the Statement provides clarification, interpretation, explanation, and elaboration on how supplemental standards issued by Title XI-related regulatory agencies cited in the Statement affect an appraiser’s obligations in specific types of appraisal assignments.

Statement No. 10 (SMT-10) was developed in response to input from the Inter Agency Work Group (IAWG), composed of representatives from the Federal Deposit Insurance Corporation (FIC), Federal Reserve Board (FRB), Office of the Comptroller of the Currency (OCC), and Office of Thrift Supervision (OTS). Based on field and examination experience, the IAWG brought to the ASB’s attention instances of non-compliance when appraisers were performing assignments for use by federally insured depository institutions in federally related transactions. The IAWG requested the ASB’s clarification, interpretation, explanation, and elaboration of USPAP to reaffirm an appraiser’s USPAP obligations when performing such assignments.

Assignments of this type include supplemental standards specific to an institution’s intended use of the assignment results, which have a direct effect on an appraiser’s scope of work. Statement No. 10 (SMT-10) addresses general USPAP applicability and compliance questions, and specific instances of non-compliance with USPAP requirements that are applicable in such an assignment. Further, this Statement explains and elaborates on what an appraiser’s ethical and competency obligations are when accepting assignments involving the agencies’ appraisal regulations and guidelines that, in some cases, supplement USPAP requirements.

Specific questions regarding regulatory compliance or requirements should be addressed directly to the appropriate agency.

**Question #3:** I am a manager for an appraisal management company that performs commercial and residential appraisals in various parts of the country. Our company acts as the agent for our clients who consist of numerous regional and national lenders. In that capacity, we take in appraisal orders from our clients and order those appraisals from fee appraisers on our approved list of appraisers. We also perform Standard 3 complaint reviews on those appraisals. We forward the appraisal and review reports to our client. Are we required to keep a file of the appraisal reviews in compliance with the Record Keeping section of the Ethics Rule?

**Answer:** Yes, the Record Keeping section of the ETHICS RULE in USPAP requires that: *An appraiser must prepare a workfile for each assignment. The workfile must include the name of the client and identity, by name or type, of any other intended users; true copies of any written reports, ...*

Further, it is important to note that the requirement under USPAP is for the **appraiser** to retain a copy of: *the workfile for a period of at least five (5) years after preparation or at least two (2) years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last...*

Therefore, it is incumbent upon the appraiser, not his or her employer, to ensure that a copy of the workfile is available for the time periods stipulated above.

**Question #4:** Can a violation of a Supplemental Standard be an Ethics Violation?

**Answer:** As explained below, in some instances “Yes” and in other instances “No.” Supplemental Standards are requirements issued (i.e., published) by such bodies as client groups, governmental entities, and/or professional appraisal organizations as a reasonable means to augment USPAP. USPAP defines Supplemental Standards as: *an assignment performance requirement that adds to the requirements in USPAP.*

If an appraiser and client ascertain that a given set of supplemental standards, in addition to USPAP, apply to an assignment, and the appraiser agrees to abide by those supplemental standards; but then fails to comply, the appraiser has violated the Supplemental Standards Rule in USPAP. *Upon agreeing to perform an assignment that includes acceptable supplemental standards, an appraiser is obligated to competently satisfy those supplemental standards, as well as applicable USPAP requirements.*

If the reason for non-compliance with an agreed upon supplemental standard was an error in judgment or a lack of diligence on the part of the appraiser, then the violation is covered by the Competency Rule. *The COMPETENCY RULE requires an appraiser to have both the knowledge and the experience required to perform a specific appraisal service competently.*

If the reason for non-compliance is deliberate failure to comply with the agreed upon supplemental standards, then the violation is an ethical issue and is covered by the revised Ethics Rule effective 1-1-2001. *An appraiser must perform assignments ethically and competently, in accordance with USPAP and any supplemental standards agreed to by the appraiser in accepting the assignment.*

Vol. 2, No. 12, December 2000

**Question #1:** What is that “Privacy Notice” in the 2001 edition of USPAP about, and how am I to figure out what to do in response to the law and regulation it references?

**Response:** The Privacy Notice that appears in the Key Features at the front of the 2001 edition and as a footnote to the definition of *Confidential Information*, the Confidentiality section of the ETHICS RULE, and in Statement 5 is about federal legislation (i.e., the Gramm-Leach-Bliley Act, November 1999), and the new privacy regulations published by financial institution regulatory agencies (e.g., OTS, OCC, FDIC, and FRB) and by the Federal Trade Commission (FTC).

Those law and regulatory actions may affect an appraiser’s obligations when handling information received from a client that is a lender, or from that client’s customer or a consumer as a loan applicant, or directly from a consumer.

The ASB recognizes that the way in which USPAP currently addresses an appraiser’s confidentiality-related obligations might not be consistent with the requirements in the law and regulations referenced above.

First, when confronted with a situation in an assignment where a part of USPAP conflicts with law or regulation in that assignment, the JURISDICTIONAL EXCEPTION RULE applies as a savings clause to permit setting the conflicting part of USPAP aside and complete the work in compliance with the remainder of USPAP.

Section, the ASB is in the process of publishing a Concept Paper on *Confidentiality as it Relates to USPAP*. The purpose of that Concept Paper is to gather comments from the broad range of parties who will be affected by the law and regulation in their day-to-day business. The Concept Paper is not an exposure draft, but is a part of the exposure draft development process.

Copies of the Concept Paper will be available on The Appraisal Foundation website before the end of December. An exposure draft of the ASB's proposed actions to address how USPAP addresses confidentiality in light of the law or regulation will be issued following completion of the ASB's information gathering and deliberation activity, after the January 2001 meeting of the ASB in Orlando, Florida.

The above referenced agencies regulations are available on their respective websites.

**Question #2:** I've been told I have to have a complete legal description for the subject property of every appraisal I perform. Is this required by USPAP?

**Response:** No, USPAP does not require a complete legal description for the subject property, since it is recognized that it is not always possible to do so. However, the reporting standards for real property, personal property and business appraisals do have similar minimum identification requirements.

In the reporting standards for real property, SR 2-2(a)(iii), for example, it states the appraiser must present: *"information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment; [Comment: The real estate involved in the appraisal can be specified, for example, by a legal description, address, map reference, copy of a survey or map, property sketch and/or photographs or the like. The information can include a property sketch and photographs in addition to written comments about the legal, physical, and economic attributes of the real estate relevant to the purpose and intended use of the appraisal.]"*

Similar requirements for sufficient identification of real property subjects are also contained in SR 2(b)(iii) and (c)(iii).

For personal property and business or intangible assets, the requirements include similar language to present *"information sufficient to identify"* the property or assets (refer to SR 8-2(a), (b) and (c)(iii) for personal property and to SR 10-2(a) and (b)(iii) for business appraisals).

Vol. 3, No. 1, January 2001

**Question #1:** I note that some of the Certification sections of USPAP have been changed in the 2001 edition. Can you tell me what has changed?

**Response:** The following summarizes the most significant changes to the Certifications in SRs 2-3, 3-2(f), 5-3, 8-3 and 10-3.

SRs 2-5, 8-5 and 10-5 were all removed and their requirements moved into the Comment section of SRs 2-3, 3-2(f), 5-3, 8-3 and 10-3. An emphasis was added on the requirement to sign a Certification, not a report, and language was also added requiring that *"An appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign this certification."*

The requirement to name individuals providing *"significant professional assistance"* was changed to *"significant real property appraisal assistance"* for SR 2-3, with similar discipline-specific references to the other Certifications in SRs 3-2(f), 8-3 and 10-3. In addition, although it is not required that the description of such assistance be contained in the Certification, disclosure of their assistance is required in accordance with new changes to the applicable reporting requirements for these standards - for example, SR 2-2(a), (b), or (c)(vii), as applicable, for real property. *[Comment: A signed certification is an integral part of the appraisal report. An appraiser who signs any part of the appraisal report, including a letter of transmittal, must also sign this certification.]*

*Any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report.*

*When a signing appraiser(s) has relied on work done by others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser(s) is required to have a reasonable basis for believing that those individuals performing the work are competent and that their work is credible.<sup>34</sup>*

*The names of individuals providing significant real property appraisal assistance who do not sign a certification must be stated in the certification. It is not required that the description of their assistance be contained in the certification, but disclosure of their assistance is required in accordance with SR.2-2(a), (b), or (c)(vii), as applicable.*

**Question #2:** A client has asked me to develop an appraisal. I am not under any obligation by law or regulation, or by agreement with the client, to comply with USPAP for this particular assignment, but I would like to do so. Is this possible?

**Response:** Yes, you can voluntarily choose to perform an assignment under USPAP. The ETHICS RULE states *"Compliance with these standards is required when either the service or the appraiser is obligated by law or regulation, or by agreement with the client or intended users, to comply. Compliance is also required when an individual, by choice, represents that he or she is performing the service as an appraiser."*

**Question #3:** A client feels his property is over assessed by the County. He's asked me to perform a tax consulting service that involves advocacy for his position and I'd like to charge him on a contingency fee basis. This assignment would not include an appraisal. I have two questions:

Is this service allowed under USPAP? If not, can I perform this assignment outside of USPAP?

**Response:** (1) You cannot perform this assignment under USPAP. An appraiser, in appraisal practice, cannot be an advocate. The ETHICS RULE states *"In appraisal practice, an appraiser must not perform as an advocate for any party or issue. [Comment: An appraiser may be an advocate only in support of his or her assignment results. Advocacy in any other form in appraisal practice is a violation of the ETHICS RULE.]"* Appraisal practice is defined in USPAP as *"valuation services including, but not limited to, appraisal, appraisal review, or appraisal consulting, performed by an individual as an appraiser."*

Furthermore, none of the certifications in USPAP allow any bias, contingent compensation, or direction in value that favors the cause of the client.

(2) Absent any law or regulation to the contrary, you may complete this assignment outside of USPAP, as long as you are very clear about your role. The ETHICS RULE also states *"An appraiser must not misrepresent his or her role when providing valuation services that are outside of appraisal practice."*

## Disciplinary Actions

**PETER MELONE, CERTIFIED GENERAL APPRAISER  
MCFARLAND WI REPRIMAND/COSTS**

Appraisal report did not incorporate all the elements required by USPAP. The client had requested a short appraisal or short narrative. He did not state explicitly in his appraisal report that he was departing from full compliance with USPAP. Effective 8/23/2000. Secs. 15.08(5)(c), 458.26, Stats. RL 86.01(2) Case #LS9809081APP

**THOMAS E HESS, CERTIFIED RESIDENTIAL APPRAISER  
NEW HOLSTEIN WI REPRIMAND/LIMITED/COSTS**

Engaged in conduct while practicing which evidenced a lack of knowledge or ability to apply professional principles or skills. Effective 10/28/2000. Sec. 458.26(3)(c), Stats. RL 86.01(2),(6) Case #LS0010182APP

# REGULATORY DIGEST

PRSRT STD  
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Madison, WI  
Permit No. 1369

RETURN SERVICE REQUESTED

## Telephone Directory

The Division of Business Licensure & Regulation has a menu telephone system which is designed to more efficiently direct the caller to the appropriate section. The telephone number for staff is:

**(608) 266-5511**

After dialing this number you are asked to press 1, 2, 3 or 4. For the following requests, please press extension numbers as noted:

<b>Application Forms</b>	<b>Ext. 11</b>
<b>Complaints Against Licensees</b>	<b>Ext. 12</b>
<b>Application Processing &amp; Requirements</b>	<b>Ext. 42</b>
<b>Whether A Person Is Registered</b>	<b>Ext. 442</b>
<b>Fax Number</b>	<b>(608) 267-3816</b>

## Board Meeting Dates in 2001

April 25, June 27, August 22, October 31

All meetings are held at 1400 E. Washington Avenue, Madison WI, and are open to the public. Meetings are subject to cancellation without notice. Please call to confirm dates.

## Visit the Department's Web Site

[www.drl.state.wi.us](http://www.drl.state.wi.us)

For our new "Online Verification of Credential Holders" click on the "Business and Professional License Lookup" button on the Department's home page.

Copies of the Regulatory Digest are on the Web.

Send comments to [dorl@drl.state.wi.us](mailto:dorl@drl.state.wi.us)

## Wisconsin Statutes and Code

Copies of the "Statutes and Administrative Code for the Real Estate Appraisers Board" can be ordered from the Department. Include your name, address, county and a

check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated February, 2000.

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**SECTION 444.11, STATS., ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.**

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